

**ASSEMBLY BILL**

**No. 1068**

**Introduced by Assembly Member Plescia**

February 22, 2005

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An act to amend Section 3247 of the Civil Code, relating to works of improvement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1068, as introduced, Plescia. Public works of improvement: payment bonds.

Existing law requires every original contractor to whom is awarded a contract by a public entity, except as specified, involving an expenditure in excess of \$25,000 for any public work, before entering upon the performance of the work to file a payment bond with and approved by the officer or public entity by whom the contract was awarded.

This bill would further provide that anytime such an original contractor's contract is assigned to a 3rd party, the 3rd party shall be required to provide a payment bond.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 3247 of the Civil Code is amended to
- 2 read:
- 3 3247. (a) Every original contractor to whom is awarded a
- 4 contract by a public entity, except as provided in subdivision (d)
- 5 of Section 7103 of the Public Contract Code, involving an
- 6 expenditure in excess of twenty-five thousand dollars (\$25,000)

1 for any public work shall, before entering upon the performance  
2 of the work, file a payment bond with and approved by the  
3 officer or public entity by whom the contract was awarded.

4 A public entity shall state in its call for bids for any such  
5 contract that a payment bond is required in the case of such an  
6 expenditure.

7 *(b) Anytime an original contractor's contract, described in*  
8 *subdivision (a), is assigned to a third party, the third party shall*  
9 *be required to file a payment bond with and approved by the*  
10 *officer or public entity by whom the contract was awarded.*

11 *(c) A payment bond filed and approved in accordance with*  
12 *this section shall be sufficient to enter upon the performance of*  
13 *work under a duly authorized contract—~~which~~ that supplements*  
14 *the contract for which—~~such~~ the payment bond was filed, if the*  
15 *requirement of a new bond is waived by the public entity.*

16 ~~(e)–~~

17 *(d) For purposes of this section, providers of architectural,*  
18 *engineering, and land surveying services pursuant to a contract*  
19 *with a public entity for any public work shall not be deemed an*  
20 *original contractor and shall not be required to post or file the*  
21 *payment bond required in subdivisions (a)—~~and~~, (b), and (c). This*  
22 *subdivision shall apply to all contracts entered into subsequent to*  
23 *January 1, 1971.*

24 The amendment to this section made during the 1980 portion  
25 of the 1979–80 Regular Session of the Legislature by Chapter  
26 293 of the Statutes of 1980, does not constitute a change in, but is  
27 declaratory of, existing law.